REMARKS

Claims 37-55 are pending in the application. Claims 38 and 43-46 have been canceled. Claim 37 has been amended. No new matter has been added.

Amendments of the originally filed claims, or cancellation of any claims, should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. The amendments are being made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the right to prosecute the originally filed claims further, or similar ones, in the instant or subsequently filed patent applications.

Applicants thank the Examiner for withdrawing several of the rejections from the last Office Action. Applicants also respectfully request that the Examiner initial page 5 of the IDS filed on November 3, 2006 in the instant application in recognition that the references cited on said page were considered.

Objections to Priority

The Examiner has objected to Applicants' claim of priority in the instant application to U.S. Application 10/293,417, U.S. Patent 6,555,319, and U.S. Patent 5,986,065 because these priority documents allegedly fail to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. § 112 for one or more claims of the application. More specifically, it is the Examiner's position that the claimed priority documents do "not provide enablement or written description for treatment of sepsis with the claimed antibodies, thus the effective filing date for the application is 22 January 2004."

Applicants respectfully traverse the rejection. Applicants submit that the disclosure of U.S. Application 08/814,805 was filed (hereafter referred to as the '806 application and now U.S. Patent 5,986,065) implicitly provides both enablement and written description for treatment of sepsis with the claimed antibodies. A skilled artisan at the time that the '806 application was filed would have known that sepsis could be treated by addressing the resulting disseminated intravascular coagulation phenotype. For example, it was known from Levi et al. 1994 (document number EO from the IDS filed on January 19, 2006) that "endotoxin-induced activation of coagulation appears to be mediated by the tissue factor-dependent pathway." The '806 specification teaches that antibodies of the invention could be used to detect native human

tissue factor in a biological sample, such as that from a patient suffering from septic shock (Column 12, lines 19-38), and that antibodies of the invention could then be administered to a primate, such as a human, to prevent or reduce thromboses (Column 9, lines 63-65) as are manifested during sepsis. Moreover, the '806 specification teaches therapeutic compositions (Column 9, line 66 to Column 10, line 22), methods of administration (Column 10, lines 32-39), and therapeutic dosages (Column 10, lines 39-62) relevant to the treatment of sepsis. Finally, the specification provides a literal basis for the term "septic shock syndrome" at page 6, first paragraph.

Based upon the foregoing, Applicants respectfully request reconsideration and withdrawal of the objection to priority and also request that the effective filing date for the application be recognized as March 10, 1997.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 37-42, 44, and 47-55 remain rejected under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the enablement requirement. In particular, it is the Examiner's contention that the claims are not enabled for treatment of sepsis with antibodies other than SEQ ID NO: 4.

In an effort to expedite prosecution, Applicants have amended claim 37, from which the other claims depend, to require that the antibody comprise a sequence represented by SEQ ID NO: 4. Support for this amendment may be found throughout the specification, and particularly in the Examples. The Examiner has acknowledged that there is support for such an antibody in the specification (see pending Office Action, page 5). Accordingly, Applicants respectfully request withdrawal of the rejection for lack of enablement.

Rejections under 35 U.S.C. § 103

Claims 37-42, 44, and 47-55 remain rejected under 35 U.S.C. § 103, as allegedly obvious over Wong et al. (WO98/40408, published 17 September 1998) in view of Taylor (Crit Care Med. 2001, 29(7 Suppl): S78-89).

Applicants respectfully traverse the rejection. The primary reference cited by the examiner, Wong et al. (WO 98/40408), was published on September 17, 1998, which is after the filing date of U.S. Patent No. 5,986,065 (March 10, 1997), to which the instant patent application claims priority. U.S. Patent No. 5,986,065 specifically supports the instant claimed method, as detailed above. Accordingly, Applicants respectfully request withdrawal of the rejection.

Provisional Double Patenting

Claims 37, 38, 40, 41, 42, 47, 48, 49, 50 and 51 remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 32, 34, 35, 38, 46, 47 and 48 of copending Application No. 10/310,113 in view of Taylor.

Claims 37, 38, 39, 40, 41, 42, 44, 47, 50 51, 52, 53 and 54 remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 53, 54, 55 and 57 of copending Application No. 10/618,338 in view of Taylor.

Claim 37 remain provisionally rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claims 25, 26, 27 and 33 of copending Application No. 11/087,528 in view of Taylor.

Claims 37, 47, 49, 50 remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 66 of copending Application No. 11/122,622 in view of Taylor.

Applicants thank the Examiner for withdrawing the provisional rejection of claims 37 and 40 on the ground of nonstatutory double patenting over claims 21, 23, 24, 29 and 30 of copending Application No. 11/311,702 in view of Taylor. Claims 38, 39, 42, 47, 50 and 51 therefore remain provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 and 10-12 of copending Application No. 11/311,702 in view of Taylor.

Upon indication of allowable subject matter, Applicants agree to file a terminal disclaimer with respect to the above-listed co-pending patent applications.

CONCLUSION

Early and favorable consideration of the application is respectfully solicited. The examiner may address any questions raised by this submission to the undersigned at (617) 832-1000. A one-month extension fee in the amount of $120.00 is believed to be due in connection with this submission. The Commissioner is further authorized to credit any overpayment or charge any deficiencies to our Deposit Account No. **06-1448, Ref. TNA-005.05.**

Respectfully submitted,
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